

## **EXHIBIT 85**

**to Declaration of William J. Goines in Opposition to  
Plaintiffs' Motion for Class Certification**

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Attorneys for Defendants Polo Ralph Lauren  
Corporation; Polo Retail, LLC; Polo Ralph Lauren  
Corporation, doing business in California as Polo Retail  
Corporation; and Fashions Outlet of America, Inc.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ANN OTSUKA, an individual; JANIS KEEFE,  
an individual; CORINNE PHIPPS, and  
individual; and JUSTIN KISER, an individual;  
and on behalf of all others similarly situated,

Plaintiff,  
v.

POLO RALPH LAUREN CORPORATION, a  
Delaware Corporation; et al.,  
  
Defendants.

**AND RELATED CROSS-ACTIONS.**

Case No. C07-02780 SI

**DECLARATION OF SCOTT KAFOURY  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR CLASS  
CERTIFICATION**

Date:  
Time:  
Dept: Courtroom 10, 19<sup>th</sup> Fl.  
Judge: Hon. Susan Illston

1 I, Scott Kafoury, hereby affirm, under penalty of perjury, as follows:

2 1. I presently am the District Manager for Polo Ralph Lauren Factory Outlet Stores  
3 located in Camarillo, Pismo Beach, Ontario, Cabazon, Carlsbad, San Diego, and Alpine, California. I  
4 have served in this position since January 2005. I have personal knowledge of the facts set forth in  
5 this declaration, and if called as a witness, could and would competently testify as set forth below.

6 2. Presently, I oversee seven stores. I am responsible for management, development and  
7 ensuring that company policies are met. I have weekly conference calls with the General Managers  
8 for the stores in my district. I have individual calls with General Managers twice a month.

9 3. My responsibilities include explaining to the General Managers the rest and meal break  
10 policy and ensuring that those policies are enforced in the stores. I personally follow up in each store  
11 in my district to personally observe whether policies are being followed.

12 4. General Managers are required to use a Daily Planning Agenda to ensure that each  
13 employee takes a rest and meal break. This form has a list of all sales associates scheduled to work  
14 and lists when each sales associate is scheduled to take their rest and meal breaks. When a sales  
15 associate leaves to take their rest or meal break, they initial the Daily Planning Agenda next to their  
16 rest or meal break time to indicate that they have taken their rest or meal break.

17 5. I personally explained this rest and meal break policy to all of the General Managers  
18 in California.

19 6. Each of the stores in my district vary dramatically in size, from 6000 square feet  
20 (Alpine) to 10,700 square feet (Camarillo), and the range of sales associates in each store is anywhere  
21 from 12 employees to 85. Each store follows Polo company policies and procedures but the practices  
22 in each store differ depending on the size of the store and the number of employees.

23 7. In my scope as district manager, I have never observed any of the problems contained  
24 in the Complaint in any of my stores, nor have any of my General Managers brought any of those  
25 issues to my attention.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing  
2 is true and correct.

3 Executed on May 30, 2008

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6 Scott Kafoury  
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## **EXHIBIT 86**

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Plaintiffs' Motion for Class Certification**

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 Corporation; Polo Retail, LLC; Polo Ralph Lauren  
 Corporation, doing business in California as Polo Retail  
 Corporation; and Fashions Outlet of America, Inc.

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

ANN OTSUKA, an individual; JANIS KEEFE,  
 an individual; CORINNE PHIPPS, and  
 individual; and JUSTIN KISER, an individual;  
 and on behalf of all others similarly situated,

Plaintiff,

v.

POLO RALPH LAUREN CORPORATION, a  
 Delaware Corporation; et al.,

Defendants.

Case No. C07-02780 SI

**DECLARATION OF TRACEY  
 FICKLIN-WAGENER IN SUPPORT OF  
 DEFENDANTS' OPPOSITION TO  
 PLAINTIFFS' MOTION FOR CLASS  
 CERTIFICATION**

Date: July 11, 2008  
 Time: 9:00 a.m.  
 Dept: Courtroom 10, 19<sup>th</sup> Fl.  
 Judge: Hon. Susan Illston

1 I, Tracey Ficklin-Wagener, hereby affirm, under penalty of perjury, as follows:

2 1. I presently am the District Manager for Polo Ralph Lauren Factory Outlet Stores  
3 located in Vacaville, Gilroy, Gilroy Childrens store, and Shasta, California. I have served in this  
4 position since December 2004. I have personal knowledge of the facts set forth in this declaration,  
5 and if called as a witness, could and would competently testify as set forth below.

6 2. Presently, I oversee eight stores; four of those stores are located in California. I am  
7 responsible for management, development, customer experience and ensuring that company policies  
8 are met. I have weekly conference calls with the General Managers for the stores in my district. I  
9 have individual calls with General Managers twice a month.

10 3. My responsibilities include explaining to the General Mangers the rest and meal break  
11 policy and ensuring that those policies are enforced in the stores. I personally follow up in each store  
12 in my district to personally observe whether policies are being followed.

13 4. General Managers are required to use a Daily Planning Agenda to ensure that each  
14 employee takes a rest and meal break. This form has a list of all sales associates scheduled to work  
15 and lists when each sales associate is scheduled to take their rest and meal breaks. When a sales  
16 associate leaves to take their rest or meal break, they initial the Daily Planning Agenda next to their  
17 rest or meal break time to indicate that they have taken their rest or meal break. The General  
18 Managers fax the Daily Planning Agenda's to Polo's Human Resources Department every Sunday so  
19 that Polo can ensure that these policies are being followed.

20 5. Each of the stores in my district vary in size, from approximately 4,000 square feet  
21 (Gilroy Children's) to approximately 10,000 square feet (Gilroy), and the range of sales associates in  
22 each store is anywhere from 6 employees to 60. Each store follows Polo company policies and  
23 procedures but the practices in each store differ depending on the size of the store and the number of  
24 employees.

25 6. In addition to differing sizes, the sales volume of the store impacts the practices of that  
26 store. The smaller the store, the more personal interaction between managers and sales associates.

27 7. In my scope as district manager, I have never observed any of the problems contained  
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1 in the Complaint in any of my stores, nor have any of my General Managers brought any of those  
2 issues to my attention.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing  
4 is true and correct.

5 Executed on June 2, 2008

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7 Tracey Ficklin-Wagener  
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